

“RETAIN FOR SUBSEQUENT COUNCIL PUBLIC HEARING”



**CITY OF EL PASO, TEXAS
PLANNING, RESEARCH & DEVELOPMENT DEPARTMENT**

M E M O R A N D U M

TO: The Honorable Mayor and City Council
Joyce A. Wilson, City Manager
Patricia D. Adauto, Deputy City Manager
Laura Uribarri, Executive Assistant to the Mayor
Adrian Ocegueda, Executive Assistant to the Mayor

FROM: George G. Sarmiento, AICP, Director

SUBJECT: Council Agenda Item (Ordinance)
Introduction: November 09, 2004
Public Hearing: November 23, 2004

DATE: November 01, 2004

The following item has been scheduled for City Council action as noted above. Relevant information is attached. If you have any questions, please contact me at 541-4193.

AN ORDINANCE AMENDING TITLE 15 (PUBLIC SERVICES), BY AMENDING CHAPTER 15.08 (STREET RENTALS), SECTION 15.08.120 (SPECIAL PRIVILEGE LICENSES), OF THE EL PASO MUNICIPAL CODE TO ALLOW FOR BANNER PROGRAMS IN THE DOWNTOWN AREA OR OTHER AREAS; THE PENALTY BEING AS PROVIDED IN SECTION 1.08 OF THE EL PASO MUNICIPAL CODE.

c: George Sarmiento, Planning Director; Rudy Valdez, Chief Urban Planner; Esther Guerrero, Planning Tech.;
Lisa A. Elizondo, City Attorney; Theresa Cullen-Garney, Deputy City Atty.; Matt Watson, Assistant City Atty.;
City Clerk's Office

**AN ORDINANCE AMENDING TITLE 15 (PUBLIC SERVICES),
BY AMENDING CHAPTER 15.08 (STREET RENTALS), SECTION
15.08.120 (SPECIAL PRIVILEGE LICENSES), OF THE EL PASO
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THE DOWNTOWN AREA OR OTHER AREAS; THE PENALTY
BEING AS PROVIDED IN SECTION 1.08 OF THE EL PASO
MUNICIPAL CODE.**

WHEREAS, the El Paso Downtown Management District has approached the City of El Paso with request to create and operate a self-sustaining banner program that would serve as a tool for directions and increased beautification for the downtown area or other similar areas; and

WHEREAS, such a self-sustaining banner program, as contemplated, is not feasible under current ordinance; and

WHEREAS, City staff has identified certain code amendments herein that are intended to provide the necessary foundation for a self-sustaining banner program; and

WHEREAS, the Development Coordinating Committee Building & Zoning Advisory Committee, and Historic Landmark Commission recommend approval of the code amendments herein proposed; and

WHEREAS, the enactment of this ordinance amendment is done in compliance with the City Charter.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

Section 1. That Chapter 15.08 (Street Rentals); Section 15.08.120 (Special Privilege Licenses) is hereby amended by deleting 15.08.120.B.1.f (Other overhead encroachments not specified herein) and replacing as follows:

f. Banner Programs. For purposes of this section, a banner program is a group of decorative outdoor informational displays that are typically placed, erected, or fastened to street lights and used to enhance the downtown area or other similar areas as defined by council resolution. Each individual display made part of a banner program (“individual display”) shall be constructed of cloth, canvas, vinyl, light fabric, wallboard or other light materials, and shall be installed on street lights, or other approved fixtures within approved locations of the city. In no case shall individual displays made part of a banner program be permitted on any city traffic control device. A banner program as herein regulated shall comply with all of the following:

i. Display content. Each banner program individual display shall be free of all commercial, political, or immoral symbolism, and shall also exclude displays from individuals and political organizations. An individual display may provide for a business or organization sponsor name in

an area not to exceed 20% of the total display area. Individual displays made part of a banner program are intended to provide notification of the following:

- (A) Educational, scholastic, or artistic events,
- (B) Community or public interest activities or destinations,
- (C) Designated or recognized civic routes or trails,
- (D) Areas of historical or archeological significance,
- (E) Directional assistance to other areas in near proximity,
- (F) Other civic and cultural programs or facilities,
- (G) Trade shows, events, and festivals;
- (H) Individual display content shall be approved as part of the original special privilege license as per requirements herein. Additional displays for approved display locations submitted after initial banner program approval shall be reviewed the the Director of the Department of Planning, Research, & Development or that person's designee for verification of compliance with these "content" requirements. An applicant denied as to newly proposed individual display content shall have right to appeal to the Development Coordinating Committee who shall make a final determination on whether proposed replacement displays comply with these content requirements.

ii. Location. In determining whether to approve a banner program as well as the specific locations for the individual displays, the city shall approve only upon a finding of compliance with the following factors:

- (A) Individual displays satisfies the advertising intent of subsection B.1.f.i,
- (B) Individual display locations do not obstruct pedestrian and vehicular traffic,
- (C) Individual displays at each proposed location are feasible considering the placement of city fixtures or utility poles, installation of street mounting brackets, or other necessary fixtures,
- (D) When individual displays are proposed for placement on a utility pole, written authorization from the utility company allowing installation and placement shall be provided,
- (E) Individual displays are of approved material, will not be permanently installed or attached, and will allow for wind cuts, when necessary to reduce tendency of material to billow or sail,
- (F) Individual displays shall be maintained in a safe condition at all times,
- (G) Individual display locations have been inspected and found to have no technical, logistical, or safety problem by the utility company if utility poles or other utility fixtures are to be used, or the City Engineer and Director for Streets if city fixtures are to be used,
- (H) No display with a clearance less than eleven feet (measured from the bottom of the display), nor a projection of more than four feet horizontal shall encroach over a public right-of-way. An encroachment over the roadway (paved surface) portion of a public right-of-way shall not be permitted, except as otherwise recommended by the development coordinating committee and approved by the city council. In all instances, no display permitted over the roadway portion of a public right-of-way shall have a clearance less than fourteen feet six inches, measured from the bottom of the display, nor a projection of more than two feet,
- (I) The display is authorized subject to reasonable conditions regulating the location, mounting, duration, or manner of display to include provisions for approval of the method of affixing individual displays on city property by the Director of Streets and removal of individual banners, upon request by the City Manager, should same become worn, broken, or otherwise of no further aesthetic benefit to the area,
- (J) Banner displays located on Texas Department of Transportation right-of-ways may be authorized subject to removal at the request of the State of Texas.

iii. Other Requirements.

(A) Eligible entities. Any municipal management district created pursuant to Chapter 375 of the Texas Local Government Code, the El Paso Empowerment Zone, the City of El Paso, and an institution of higher education as that term is defined by Section 61.003 of the Texas Education Code.

(B) Duration of license. Banner Programs are permitted for periods of time as determined by City Council yet shall not be less than six months nor longer than three years. However, existing Banner Programs may be extended by Council.

(C) Residential and Apartment zoning. No banner program shall cover an area of which more than 35% is zoned under any residential or apartment classification.

(D) The design of individual banners located within a banner district shall not require a certificate of appropriateness from the Historic Landmark Commission yet shall be reviewed by the Director of Planning, Research, & Development or that persons designee as to compatibility with adjacent properties with historic zoning.

Section 2. That Chapter 15.08 (Street Rentals); Section 15.08.120 (Special Privilege Licenses) is hereby amended by adding 15.08.120.B.1.g to read as follows:

g. Other overhead encroachments not specified herein

Section 3. That Chapter 15.08 (Street Rentals); Section 15.08.120 (Special Privilege Licenses) is hereby amended by adding 15.08.120.D.3.g to read as follows:

g. Ten dollars for a banner program without regard to the total number of individual displays or duration of license.

Section 4. Except as herein amended, Title 15 of the El Paso Municipal Code shall remain in full force and effect.

ADOPTED this _____ day of November, 2004.

CITY OF EL PASO

Joe Wardy
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO CONTENT:

George Sarmiento, AICP
Director of Planning, Research, &
Development

APPROVED AS TO CONTENT:

Daryl Cole
Director of Streets

APPROVED AS TO FORM:

Kevin Elkins
Assistant City Attorney